

## **9 FAM 41.103 Procedural Notes**

(TL:VISA-467; 10-02-2002)

### **9 FAM 41.103 PN1 Form DS-156, Nonimmigrant Visa Application**

#### **9 FAM 41.103 PN1.1 Use and Filing of Form DS-156, Nonimmigrant Visa Application**

(TL:VISA-347; 01-15-2002)

Form DS-156, *Nonimmigrant Visa Application*, is the application form prescribed under INA 222(c). When the application section of Form DS-156 is detached from the rest of the form, it is the appropriate size for filing in the post's consolidated visa index card file. In addition to information concerning the issuance or refusal of the visa, the following information is to be included on the form in the block reserved for office use:

- (1) Record of clearances obtained, including the dates;
- (2) Record of revocation and cancellation of visa;
- (3) Any further information which would be helpful in reaching a decision if the alien's reapplies for a visa (i.e., a note that the applicant is well and favorably known to the consular officer might eliminate the need for requests for other evidence of eligibility); and
- (4) Record of re-issuance of visa.

#### **9 FAM 41.103 PN1.2 When Form DS-156, Nonimmigrant Visa Application, Constitutes Application**

(TL:VISA-387; 04-09-2002)

Form DS-156, *Nonimmigrant Visa Application*, submitted at the time an appointment is scheduled, constitutes an application if the scheduling process involves substantive actions or pre-screening. An example is a system where consular personnel pre-screens the Form DS-156 and determines whether or not an interview is required in each case. Aliens whose applications do not appear to be "clearly approvable" on the basis of the information provided are given appointments.

### **9 FAM 41.103 PN1.3 Applicant Who Fails to Appear for Interview**

(TL:VISA-387; 04-09-2002)

If an applicant fails to appear for an interview, he or she should be refused under INA 221(g). That applicant's Form DS-156, *Nonimmigrant Visa Application*, should be annotated "Interview required - applicant failed to appear for appointment." The applicant's record in the NIV system should be adjudicated to reflect the INA 221(g) refusal and closed. Posts are reminded that an applicant may not be refused under INA 214(b) without an interview.

### **9 FAM 41.103 PN1.4 Open Cases and Fee Payment**

(TL:VISA-387; 04-09-2002)

There are a wide variety of off-site fee payment procedures. All applicants, however, should be able to demonstrate that they have paid the required fee(s). Cases should not be kept open in the NIV database merely to flag a case as "fee paid" if the case is inactive.

### **9 FAM 41.103 PN1.5 Supplemental Data to Determine Eligibility**

(TL:VISA-347; 01-15-2002)

If additional data is needed to supplement the information contained on Form DS-156, *Nonimmigrant Visa Application*, so that the consular officer can determine the eligibility of an applicant, such data should be obtained by telephone, mail, or during the interview. In rare cases, the consular officer may find it necessary to have the applicant execute an affidavit (in the consular office, if possible) to supply crucial data. Pertinent information should be recorded on Form DS-156, or in an informal memorandum to be filed with any pertinent documentary evidence submitted by the applicant.

## **9 FAM 41.103 PN1.6 Affixing Photograph to Form DS-156, Nonimmigrant Visa Application**

(TL:VISA-467; 10-02-2002)

*Photographs may be stapled or glued to Form DS-156, Nonimmigrant Visa Application. [See 9 FAM 41.113 PN1.2.]*

## **9 FAM 41.103 PN2 Translating Visa Forms**

### **9 FAM 41.103 PN2.1 Authorizing Translation of Form DS-156, Nonimmigrant Visa Application**

(TL:VISA-467; 10-02-2002)

*Posts may translate Form DS-156, Nonimmigrant Visa Application locally, provided the translation is accurate and the layout of the translated Form DS-156 looks as much like the English version as possible. Department approval is not required for translation, however, posts must forward a copy of the translation to the Department (CA/VO/F/P).*

### **9 FAM 41.103 PN2.2 Availability of Translations of Form DS-156, Nonimmigrant Visa Application**

(TL:VISA-387; 04-09-2002)

*Posts may request camera-ready copies of Form DS-156, Nonimmigrant Visa Application, in the following languages from the posts indicated below:*

<b>LANGUAGE</b>	<b>POST</b>
Arabic	Cairo
Chinese	Hong Kong
Dutch	Amsterdam
French	Paris
German	Bonn
Portuguese	Lisbon
Russian	Moscow
Spanish	Santo Domingo

## **9 FAM 41.103 PN3 Authorizing Printing and Distribution of Form DS-156, Nonimmigrant Visa Application**

### **9 FAM 41.103 PN3.1 Posts May Print But Not Change Form DS-156, Nonimmigrant Visa Application**

(TL:VISA-347; 01-15-2002)

Posts are authorized to reproduce or print Form DS-156, *Nonimmigrant Visa Application*, locally. However, they are not authorized to make any changes in either the wording or the format of this form.

#### **9 FAM 41.103 PN3.1-1 Availability of Funds for Printing/Translating Form DS-156, Nonimmigrant Visa Application**

(TL:VISA-387; 04-09-2002)

Effective October 01, 2001, posts may request MRV funds to pay for expenses incurred to the printing and/or translating of Form DS-156 *Nonimmigrant Visa Application*.

### **9 FAM 41.103 PN3.2 Furnishing Form DS-156, Nonimmigrant Visa Application to Transportation Companies and Travel Agents**

(TL:VISA-347; 01-15-2002)

Posts may provide Form DS-156, *Nonimmigrant Visa Application*, to transportation companies and reputable travel agents.

### **9 FAM 41.103 PN3.3 Printing of Form DS-156, Nonimmigrant Visa Application, by Transportation Companies**

(TL:VISA-347; 01-15-2002)

Some shipping companies and airlines may wish to print Form DS-156, *Nonimmigrant Visa Application* for use by local travel agents. There is no objection to this, provided that they do not change the text and format in any manner. Moreover, no advertising is permitted on Form DS-156. [See 9 FAM 41.103 PN4 below.] Before approving Form DS-156, posts must check printer's proofs to ensure that the wording and format are correct.

## **9 FAM 41.103 PN4 Regulations Prohibiting Private Advertising on U.S. Government Forms**

(TL:VISA-347; 01-15-2002)

U.S. Government printing regulations provide that:

"...no Government publication or other Government printed matter, prepared or produced with either appropriated or non-appropriated funds or identified with an activity of the Government, shall contain any advertisement inserted by or for any private individual, firm, or corporation; or contain material which implies in any manner that the Government endorses or favors any specific commercial product, commodity or service."

Permitting the name and address of any carrier or travel agent or any private commercial slogan to appear on Form DS-156, *Nonimmigrant Visa Application*, would represent a violation of the above regulation, even if the form were printed at private expense.

## **9 FAM 41.103 PN5 Written Reapplication and Procedures**

(TL:VISA-404; 04-29-2002)

Posts that receive numerous reapplications from applicants recently refused under INA 214(b), may request the Department's concurrence to institute a written reapplication policy. Under such a policy, posts may prohibit reapplication in person by aliens refused under INA 214(b) for a period of one year, and require that any applications during that period be submitted in writing. A limitation of two years can be granted to posts in special circumstances. The number of written reapplications a person can submit may not be limited.

### **9 FAM 41.103 PN5.1 Procedures for Submitting Written Reapplication**

(TL:VISA-404; 04-29-2002)

Posts wishing to institute a written reapplication system must ensure compliance with the following procedures:

- (1) Existing visa adjudication procedures, including supervisory review of initial refusals, are scrupulously followed;
- (2) Refusal procedures include a written explanation of the grounds of refusal, a paragraph explaining the written reapplication procedure, and instructions on how to pay the MRV fee. (A form letter should be used.);

(3) Each written reapplication must be thoroughly reviewed and a reply provided. (A form letter should be used.);

(4) As part of the review, the original application is pulled and reviewed, and attached to the most recent application. The date and results of the reapplication must be noted on the most recent Form DS-156, *Nonimmigrant Visa Application*, and initialed by the officer;

(5) If the reviewing officer finds that the reapplication opens up new questions and a decision as to the applicant's eligibility cannot be made, the applicant is to be invited to return to the consular section for another interview;

(6) A procedure is in place for cases in which a bona fide need for an emergency trip to the United States can be brought to the attention of the consular officer for appropriate action. The supervisors must ensure that security guards and FSNs do not impede access to an applicant in such cases;

(7) Posts finding that a large number of reapplications are successful should review their visa adjudication procedures to ensure that initial applications are being processed fairly and efficiently; and

(8) All visa-issuing posts in the country must implement the same written reapplication procedures.

## **9 FAM 41.103 PN 5.2 Collecting the MRV Fee**

(TL:VISA-404; 04-29-2002)

Posts are reminded that the MRV fee must be collected for written reapplications, and posts should have written procedures on handling incoming fees that ensure proper accountability. If, after reviewing a written reapplication, the consular officer feels a follow-up interview is necessary, the applicant would be refused under INA 221(g), and, therefore, would not pay the MRV fee again when reappearing for a personal interview.

### **9 FAM 41.103 PN5.3 Charging Visa Application Fees**

*(TL:VISA-404; 04-29-2002)*

A person submitting a reapplication, whether in person or in writing, must pay the required visa application fees. Posts, which institute a written reapplication system, should establish clear procedures for collecting and accounting for visa application fees received with written reapplications. The applicant must receive a fee receipt either at the time he or she submits the written application or, if the fee and applications were submitted by mail, the fee receipt should be enclosed with the written response.

### **9 FAM 41.103 PN5.4 If Written Reapplication Doesn't Overcome Refusal**

*(TL:VISA-404; 04-29-2002)*

A written reapplication that does not overcome previous grounds of refusal should be refused under INA 214(b), reviewed by the supervisory consular officer, and entered with the day's refusal. This facilitates retrieval should the applicant reapply in the future, either in writing or in person.

### **9 FAM 41.103 PN5.5 One-Year Prohibition on Reapplication**

*(TL:VISA-404; 04-29-2002)*

At posts with a written application procedure, the one-year prohibition on personal interviews starts from the date of the initial person application, and is not "renewed" with each written reapplication. Thus, a person refused on January 2, 1999, may reapply in person on January 2, 2000, regardless of whether he or she has submitted a written reapplication in the interim.

### **9 FAM 41.103 PN5.6 Obtaining Department's Authorization**

*(TL:VISA-404; 04-29-2002)*

Posts must obtain authorization from the Department (CA/VO/F/P) before instituting a written reapplication procedure. Any request for authorization must include the following:

- (1) An estimate of the number of visa reapplications received within a year of the initial INA 214(b) refusal;
- (2) An evaluation of the expected impact on bilateral relations;
- (3) Post's view on the reliability of the local postal system; and

(4) An explanation of how the post intends to process the visa application fees received with reapplications, to ensure proper accountability and oversight.